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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

FNU FREESHAN,

Defendant and Appellant.

E065957

(Super.Ct.No. RIF1508017)

OPINION

APPEAL from the Superior Court of Riverside County. Jean P. Leonard, Judge.

Affirmed with directions.

Correen Ferrentino, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Fnu Zeeshan was charged by felony complaint with arson of an inhabited structure (Pen. Code,¹ § 451, subd. (b), count 1) and assault with a deadly weapon other than a firearm (§ 245, subd. (a)(1), counts 2 & 3). Pursuant to a plea agreement, defendant pled guilty to count 1. In accordance with the plea agreement, the court sentenced him to the five years in state prison and awarded 88 days of presentence custody credits. The court also ordered him to pay \$82,000 in victim restitution.

Defendant filed a timely notice of appeal. We affirm.

PROCEDURAL BACKGROUND

Defendant was charged with and admitted that, on or about December 19, 2015, he committed the crime of arson of an inhabited structure. (§ 451, subd. (b).)

DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and one potential arguable issue: whether defendant's guilty plea was constitutionally valid. Counsel has also requested this court to undertake a review of the entire record.

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

Although not raised by the parties, we note an apparent clerical error. Generally, a clerical error is one inadvertently made. (*People v. Schultz* (1965) 238 Cal.App.2d 804, 808.) Clerical error can be made by a clerk, by counsel, or by the court itself. (*Ibid.* [judge misspoke].) A court “has the inherent power to correct clerical errors in its records so as to make these records reflect the true facts. [Citations.]” (*In re Candelario* (1970) 3 Cal.3d 702, 705.)

In this case, the court neglected to dismiss counts 2 and 3. The plea agreement stated that defendant would plead guilty to count 1, in exchange for a five-year term in state prison and the dismissal of any charges he did not admit. Defendant pled guilty to count 1. The court, however, failed to dismiss counts 2 and 3 in its oral pronouncement of judgment. Notwithstanding the oral pronouncement of judgment, the minute order states that counts 2 and 3 were ordered dismissed. Neither party mentioned the court’s failure to dismiss counts 2 and 3. There is no reference to counts 2 or 3 in the abstract of judgment. It is evident the court’s failure to order the dismissals was inadvertent. Accordingly, we will direct the trial court to dismiss counts 2 and 3.

DISPOSITION

The superior court is directed to dismiss counts 2 and 3. The superior court clerk is directed to generate a new minute order reflecting that the March 4, 2016 minute order incorrectly states that the court dismissed counts 2 and 3 at that time, and that the court has now dismissed those counts. The clerk is further directed to forward a copy of the new minute order to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

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HOLLENHORST
Acting P. J.

We concur:

McKINSTER
J.

CODRINGTON
J.